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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,805	08/04/2003	Randall T. Webber	5767-PA24	7187

27189 7590 12/21/2006
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
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SAN DIEGO, CA 92101

EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/21/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/633,805	Applicant(s) WEBBER ET AL.	
	Examiner Jerome W. Donnelly	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/25/06
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected. 1-3, 8, 9, 14, 15, 18, 21, 22, 24, 26, 27, 35, 36, 37, 38, 39, 40, 41, 49-53 and 55-58
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

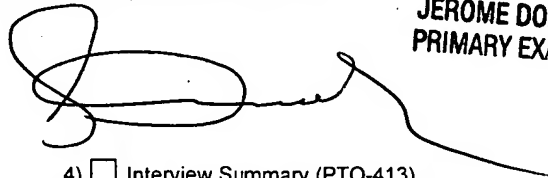
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |



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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 2, 3, 8, 9, 11, 14, 15, 18, 21, 24, 26, 36, 37, 38, 39, 40, 41, 50, 51, 52, 53, 55, 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu.

Yu discloses a device comprising a main frame (13), a user support frame (32, 42 and 52) having a primary support and a secondary support a user engagement device mounted on frame (42) which is movable, the user engagement device comprising a second part which is movable (applicant has not claimed that the engagement device be movable relative to one of the frame), a connecting link (33, 20 and 43) linking movement of the user engagement device to movement of the user support frame the connecting link comprising at least a third moving part: and a load (70) for resisting movement.

In regard to claims 36 and 37 Yu discloses a device comprising a main frame (13) a user support frame (32, 42) pivotally mounted on relative to the main frame for rotation the user support frame comprising at least one moving part:

an exercising arm mounted on said frame and being movable.

a connecting link (33, 20 and 43) linking said user support frame and said exercise arm for linking movement of said exercise arm to movement of the user support frame, the connecting link comprising a third moving part of a machine: and

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a load (70) resisting movement of at least one moving part of the machine, and the user support pivot axis mounted at a location beneath and behind a user's support (see the pivot connecting elements 32 and 42 and see the pivot located at location 121).

In regard to claim 2 and 3 note elements 31 and 41.

In regard to claims 8, 11, 38 and 39 note elements (512).

In regard to claim 9 note elements 51, 512, 52.

In regard to claims 14, 15, 40 and 41 the center line (gravitational) being extendable a central portion of the user's body and or a user's hips.

In regard to claims 18 and 21 note that the user support (42) is a two-part member comprising a base and an upright extending therefrom the primary support (32) being pivotally mounted to base (the lower section of member 42) al. The pivot axis being located approximately at a junction between the base member and said upright.

In regard to claims 24, 26, 43 and 46 note elements 60, 33 and 43.

The supports of Yu are capable of supporting a users body as claimed in claim 53.

In regard to claim 55 note element 121.

In regard to claim 54 the examiner notes that the device of Scotti is capable of performing the claimed function.

In regard to claim 57 and 58 said user supports are pivotally fixed/ attached relative to on another; and adapted to move in an orientation. (Applicant has not claimed or defined the orientation of the frame).

Claims 1, 22, 26, 27, 35, 37 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Yu.

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Yu discloses the device of claims 1, 22, 26, 27, 35, 37 and 49 substantially as claimed and in particular a user engagement (50) movably mounted on the frame, a connecting link (33, 53) pivotally attaching the user engagement device to user support 32 and said user engagement device having an adjustable component (513).

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yu in view of Chen 5356358.

Yu discloses the device of claim 49 substantially as claimed absent the feature of the device including an adjustable arm as claimed.

Chen teaches his arm (36) being adjustable.

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to manufacture the arm of Yu as being adjustable, for the purpose of adjusting the device to users of different sizes.

Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yu.

Yu discloses the device of claim 56 substantially as claimed absent the device having the user support pivot axis located on the upright of the user support frame.

The examiner however notes that it would have been obvious and a substantial functional equivalent to raise the pivot point vertically on the support member (42) of Yu without substantially changing the functionality of the device.

In other words to vertically raise the pivotal connection between the elemental components 32 and 42, on element (42) would not substantially alter the functionality of the intended use of Yu.

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Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small flourish at the end.